

plurality of sources on a plurality of user-selectable television channels, comprising:

generating control commands with a wireless remote control;

receiving the control commands from the wireless remote control with a data processor; and

displaying an alphabetically-arranged visual display of a plurality of television program titles on the television receiver with a video display generator connected to the data processor,

wherein a user may search for a title to be displayed by using the wireless remote control to select each of  $n$  characters from a plurality of displayed alphanumeric characters, where  $n$  is greater than one.

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#### REMARKS

In reply to the December 12, 2001 Office Action, applicants hereby respectfully request reconsideration of the above-identified patent application in view of the following remarks.

Claims 1-55 are pending in this application. Claim 40 has been amended in response to the Examiner's rejections. An Appendix showing the amendments to claim 40 is attached.

### Summary of the Office Action

The Examiner rejected claims 1-55 as being based upon a defective reissue declaration. The Examiner rejected claim 40 under 35 U.S.C. § 251 as being an improper recapture of claimed subject matter. The Examiner rejected claims 24, 27-28, 32, 38-40, 43-44, 48, and 54-55 under 35 U.S.C. § 102(e) as being anticipated by Hoarty, U.S. Patent No. 5,485,197 (hereinafter "Hoarty"). Claims 29-30, 33-37, 45-46, and 49-53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoarty.

### Applicants' Reissue Declarations

The Examiner expressed the view in Paragraph 3 of the Office Action that applicants' Declarations fail to comply with Rule 175 because they do not include the exact language set forth in Rule 175(a)(2) and Rule 63(b)(2).<sup>\*</sup> The MPEP makes clear, however, that copying the exact language of Rule 175 is not the exclusive means for compliance with the Rule. See MPEP § 1414, heading III (indicating that the statement of Rule 175(a)(2) cited by the examiner "may be included in an oath or declaration" to comply with Rule 175 (emphasis added)). Applicants' Declarations comply with Rule 175 if, in substance, they include the "required averments" of Rule 175.

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\* Paragraph 3(a) of the Office action cites Rule 63(b)(1). Applicants believe that the Examiner intended to cite Rule 63(b)(2).

Applicants' Declarations include the "required averment" of Rule 175(a)(2). The applicants declare in Paragraph 8 of the Declarations that "[a]ll errors being corrected in this reissue application arose without any deceptive intent."

(Emphasis added.) Clearly Paragraph 8 includes errors corrected "up to the time of filing the oath or declaration." No errors are exempted from the applicants' averment that the corrections were made "without any deceptive intention on the part of the applicant." And, notably, nothing in Rule 175 prevents applicants' from making the required averment of Rule 175(a)(2) in the form applicants have used in Paragraph 8.\*

Applicants' Declarations also include the averments of Rule 63(b)(2) incorporated by reference into Rule 175(a) (i.e., that applicants have reviewed and understand the application "as amended by any amendment specifically referred to in the oath or declaration." Rule 63(b)(2)). Claims 24-55 were physically incorporated into the specification when it was filed, as permitted by Rule 173(b). This was the only amendment made in this application. Paragraph 2 of applicants' declarations states that applicants reviewed and understood "the contents of said

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\* Applicants acknowledge the requirements of Rule 175(b)(1) and MPEP § 1414.01 to provide a supplemental Declaration in the event any errors not corrected upon filing are later corrected. The fact that Paragraph 8 of applicants' Declarations states "all errors" are being corrected does not mean that applicants' Declaration is defective. It is merely ineffective as to later-corrected errors.

application for reissue, including the claims." Accordingly, the "required averment" of Rule 63 has been made.

Clearly the "required averments" of Rule 175 have been made. Applicants respectfully submit that requiring the exact language of Rule 175 elevates form over substance. The rejection of claims 1-55 under § 251 should be withdrawn.

#### The Recapture Rejection of Claim 40

Claim 40 has been rejected under 35 U.S.C. § 251 as being an improper recapture of claimed subject matter. In response, claim 40 has been amended to read "where n is greater than one." Claim 40, as amended, is therefore allowable for the reasons set forth below.

#### The Prior Art Rejections

Claims 24, 27-28, 32, 38-40, 43-44, 48, and 54-55 were rejected under U.S.C. § 102(e) as being anticipated by Hoarty. Claims 29-30, 33-37, 45-46, and 49-53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoarty. These rejections are respectfully traversed.

Claims 24-55 are directed towards various features of applicants' systems and methods for providing a search-by-title feature in an electronic television programming guide. As set forth in independent claims 24 and amended claim 40, users may

select "each of" "n characters" with a "wireless remote control," where "n is greater than one."

Hoarty fails to disclose or suggest such an approach for at least two reasons. First, the display shown in FIG. 38 does not allow users to select "each of" n characters. Each means "every one of two or more considered individually or one by one" or "every one individually; each one." *The Random House Dictionary Of The English Language*, Second Edition (1987) (a copy of which is enclosed for the Examiner's convenience). In contrast, the display of FIG. 38 only allows users to select a group of characters, such as "ABCDE". Second, the display of FIG. 39 does not allow users to select each of "n characters", where "n is greater than one". Instead, users may only select one character.

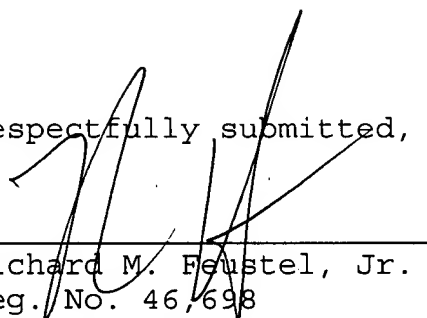
Claims 25-39 and claims 41-55 depend from independent claims 24 and 40, respectively, and add various patentable features thereto. The foregoing is sufficient to demonstrate the patentability of these claims and to warrant the withdrawal of all of the rejections under § 102 and § 103. 35 U.S.C. § 112 para. 4. Accordingly, their additional patentable features will not be discussed.



Conclusion

In view of the foregoing, this application is in condition for allowance. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

  
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Appendix

MARKED-UP VERSIONS OF AMENDED CLAIMS  
PURSUANT TO RULE 121(c)(ii)

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40. (Amended) A method for using an electronic television programming guide used in connection with a television receiver that displays a plurality of television programs from a plurality of sources on a plurality of user-selectable television channels, comprising:

generating control commands with a wireless remote control;

receiving the control commands from the wireless remote control with a data processor; and

displaying an alphabetically-arranged visual display of a plurality of television program titles on the television receiver with a video display generator connected to the data processor,

wherein a user may search for a title to be displayed by using the wireless remote control to select each of n characters from a plurality of displayed alphanumeric characters, where n is greater than [or equal to] one.

DO NOT ENTER  
NOT IN COMPLIANCE w/ 37CFR § 1.173